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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,767	11/03/2005	Martina Ebert	STOPPELMANN1	6941
1444 7590 01/06/2009 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				
EXAMINER				
USELDING, JOHN E				
ART UNIT		PAPER NUMBER		
1796				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/526,767

Applicant(s)

EBERT ET AL.

Examiner

JOHN USELDING

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 9-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

This application contains claims 9-12 drawn to an invention nonelected with traverse in the reply filed on 8/7/2008. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-8 and 13-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not support the limitation "the molding compound being substantially free of any other filler". Although it is appreciated that the particular embodiments of the molding compound mentioned in Applicants' Specification are, themselves, devoid of any other filler, there

is no evidence that Applicant had contemplated their exclusion either. Therefore, the limitation added represents new matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 and 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Applicant has claimed that the chalk is uncoated. A molding compound containing chalk and polyamide will inherently have the polyamide coating the chalk. This is the same argument that the Applicant has used for the olefin compound coating the chalk of Kumaki et al. (arguments filed 11/20/2008 page 11). The mineral filler cannot be identified as uncoated under the applicant's own definition.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Umetsu et al. (6,121,388) in view of Dupuis et al. (6,093,487).

Umetsu et al. teach a molding composition preferably comprising nylon 6T/6I (column 3, lines 51-54). Umetsu et al. teach that the composition can comprise a filler to improve the mechanical strength of the composition. Calcium carbonate is listed (column 9, lines 50-67). A blank is any piece of material that can be made into something. Umetsu et al. mold their composition into vehicle lamp reflectors (column 12, lines 56-65). Umetsu et al. teach using 20 to 150 parts by weight of their filler. It is obvious to optimize the amount of filler for a desired mechanical strength. It is a result effective variable. See MPEP 2144.05.

Umetsu et al. fails to teach a calcium carbonate with the particle sizes as claimed.

However, Dupuis et al. teach a filler material that permits the impact strength and rigidity properties of plastic substrates to be conjointly reinforced (column 1, lines 39-43). It is an improvement over using just calcium carbonate (column 1, lines 21-30). The filler is a core/sheath polymer/calcium carbonate particle. The polymer is coated with calcium carbonate (column 2, lines 14-25). The calcium carbonate itself is not coated. Dupuis et al. teaches that the thickness of the calcium carbonate layer more preferably ranges from 5 to 70 nm (column 4, lines 32-36) and taught an embedment that was 5 nm (column 11, lines 39-40). If the thickness of the layer is 5 nm the particle size of the calcium carbonate must intrinsically be smaller than 70 nm. Dupuis et al. teach that their filler can be used in polyamide compositions to increase the impact resistance (column 9, lines 19-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the reinforcement filler of Dupuis et al. as the reinforcement filler of Umetsu et al. and would have been motivated to do so because it provides superior performance to calcium carbonate and permits the impact strength and rigidity properties of plastic substrates to be conjointly reinforced.

The core/shell filler is the only filler so the composition is substantially free of any other filler. Calcium carbonate is the only miner filler used and it is uncoated.

Since the composition of Umetsu et al. combined with Dupuis et al. is the same as claimed it will have the same physical properties that have been claimed or the applicant has failed to claim a critical feature that is need to obtain the properties.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Umetsu et al. (6,121,388) as applied to claims 1 and 4 above as evidenced by Salamone (Polymeric Materials Encyclopedia).

Umetsu et al. fails to teach the ratio of the dicarboxylic acids used. The claimed ratio is intrinsically within the range of PA 6T/6I. Salamone is being used as evidence to show that PA 6T/6I has a terephthalic acid percentage of 60-80% and an isophthalic percentage of 40-20% (page 6574). It would have been obvious to one of ordinary skill in the art to try any ratio, including 70/30, given that there is a finite number of ratios available and would expect them all to function in the same or similar capacity. It would have been obvious to have optimized the ratio for a desired glass transition temperature, melting point, and adsorption of moisture and solvents.

Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Umetsu et al. (6,121,388) in view of Dupuis et al. (6,093,487) and Tahara et al. (6,165,407).

These are product by process claims. Process limitations in product claims are not limited to the manipulations of the recited steps, only the structure implied by the steps. *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985). Where the claimed and prior art products are identical or substantially identical in structure or composition, or are produced by identical or substantially identical processes, a *prima facie* case of either anticipation or obviousness has been established. *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). "When the PTO shows a sound basis for believing that the products of the applicant and the prior art are the same, the applicant has the burden of showing that they are not." *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990). Therefore, the *prima facie* case can be rebutted by evidence showing that the prior art products do not necessarily possess the characteristics of the claimed product. *In re Best*, 562 F.2d at 1255, 195 USPQ at 433. See also *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).

Umetsu et al. and Dupuis et al. teach what is listed above.

Umetsu et al. fails to teach a method of making their vehicle reflectors.

Tahara et al. teach a method of making a vehicle head lamp reflector (column 24, lines 33-40) that is metallized directly by applying a metal coating through PVD (column 23, lines 34-39). The molded article constituting the reflector part is made using partially crystalline polyamide and calcium carbonate as a filler (column 24, lines 37-39, column 19, line 21, column 20, lines 9-10 and 65).

Since the compositions are similar it would have been obvious to one of ordinary skill in the art at the time the invention was made to have looked to the prior art for a method of making a reflector and to have used the method of Tahara et al. to make the vehicle reflector of Umetsu et al.

Since the method of making the molding composition and method of making the reflector are the same this combination would provide a reflector with the same physical properties such as an iridescence temperature above 220°C.

Response to Arguments

Applicant's arguments with respect to claims 1-8 and 13-16 have been considered but are moot in view of the new ground(s) of rejection. The rejections were withdrawn because the chalk of the prior art was coated.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN USELDING whose telephone number is (571)270-5463. The examiner can normally be reached on Monday-Thursday 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John Uselding
Examiner
Art Unit 1796

/Marc S. Zimmer/
Primary Examiner, Art Unit 1796